

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANGELA L. RUCKMAN,

Plaintiff,

v.

PHH MORTGAGE CORPORATION d/b/a
PHH MORTGAGE SERVICING, *et al.*,

Defendants.

: Case No.: 5:21-cv-00923-JRA

: Judge John R. Adams

:

: **AFFIDAVIT OF DIANE S. BENNETT**

:

STATE OF OHIO)

) SS:

COUNTY OF SUMMIT)

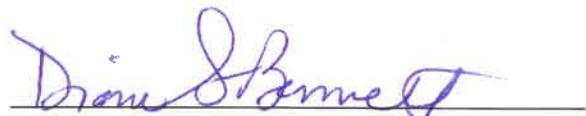
Diane S. Bennett, being first duly sworn, deposes and says:

1. I am a Loss Mitigation Department Coordinator employed by the Clunk, Hoose, Co., L.P.A., foreclosure counsel for non-party HSBC Bank USA, N.A.;
2. I am over the age of 18 and competent to testify as to the matters contained herein;
3. I have personal knowledge of the facts attested to herein;
4. I am a custodian of the business records of Clunk, Hoose Co., LPA; that these business records are kept in the normal course of business and the information contained in them was created at or near the time of the events described therein; that Clunk, Hoose Co., LPA relied on these records in the normal course of conducting its business.
5. I corresponded with Plaintiff Angela Ruckman regarding the loss mitigation process and the loan modification offered to her.
6. I am able to testify that I emailed Defendant Angela Ruckman on December 1, 2020 advising her that PHH had granted an extension to December 31, 2020 to accept or reject the permanent loan modification. A true and accurate copy of this email is attached hereto as Exhibit "A."
7. On March 3, 2021, I emailed Defendant Angela Ruckman and advised her that the permanent modification denial had not yet been reversed by the Plaintiff. I also stated

that in order for the reversal to be processed, she would need to make the February and March payments. A true and accurate copy of this email is attached hereto as Exhibit B.

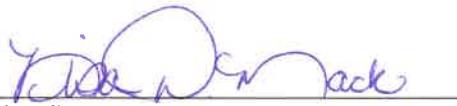
8. On March 6, 2021, Defendant Angela Ruckman responded by stating that she made the February and March payments and was notified by Kroger's that the payment dated February 11, 2021 was returned. A true and accurate copy of this email is attached hereto as Exhibit "B."
9. In response, I emailed Defendant Angela Ruckman on March 8, 2021, advising her that Plaintiff confirmed that she was due for the February and March payments and that she needed to send in a total of \$873 .93 in order for the reversal to be processed. A true and accurate copy of this email is attached hereto as Exhibit "B."
10. On March 23, 2021, I emailed Defendant Angela Ruckman with a breakdown of the payments received and the amount she needed to submit in order for the permanent modification denial to be reversed. A true and accurate copy of this email is attached hereto as Exhibit "B"

FURTHER AFFIANT SAYETH NOT.



Diane S. Bennett

SUBSCRIBED and SWORN to before me on this 18th day of February, 2022, by Diane S. Bennett, known to me or (or satisfactorily proven to me through production of _____ as identification) to be the person(s) who appeared before me.


(seal)

Notary Public, State of _____
Commission No.: _____
My commission expires _____


(printed name)

LISA D. MACK

NOTARY PUBLIC
STATE OF OHIO

My Commission Expires
May 5, 2023



CERTIFICATE OF SERVICE

I certify that an exact copy of the foregoing document was sent via electronic mail on February 25, 2022 to all counsel for record.

/s/ Sarah A. Wilson

Sarah A. Wilson

EXHIBIT A

Ashley E. Mueller

From: Diane S. Bennett
Sent: Tuesday, January 12, 2021 2:26 PM
To: 'aruckman419@neo.rr.com'
Subject: RE: 2020 CV 0169 CH file 20-00349 Modification

I am waiting on a response from our client if that is still available to you.

If you want to try to accept it, you need to sign, notarize(if required) and return the original signed documents to them as soon as possible via overnight mail – keep the tracking information or send it to me. Documents are rarely re-drafted. Nov first would be the correct effective date.

This is the overnight mailing address:

PHH Mortgage Services
Attn: Modifications
5720 Premier Park Drive
West Palm Beach, FL 33407

From: aruckman419@neo.rr.com [mailto:aruckman419@neo.rr.com]
Sent: Tuesday, January 12, 2021 2:22 PM
To: Diane S. Bennett
Subject: Re: 2020 CV 0169 CH file 20-00349 Modification

Yes permanent modification. I've made the December and January payment. The paperwork refers to 11/1/2020 as the effective date.

----- Original message-----

From: Diane S. Bennett
Date: Mon, Jan 11, 2021 2:28 PM
To: aruckman419@neo.rr.com
Cc:
Subject: RE: 2020 CV 0169 CH file 20-00349 Modification

Good Afternoon:

What updated documents are you referring to that you need to sign?

If you are referring to the permanent modification that was previously offered, I don't know if that is even still available to you. Your first modified payment was due on 12/1/20, and the second payment was due on 1/1/21. The monthly payment amount is \$469.12. The balloon pmt of \$22,644.26 is due on 10/1/2035 in one lump sum. In addition, the modification states that if your financial situation has changed the offer can be invalidated.

I checked our client's imaging system and our file, neither of us are showing any new application documents received from you. Do you have proof of a fax, proof of an email, tracking information if sent by the US postal service? If so, please advise when the documents were delivered and who signed for them.

From: aruckman419@neo.rr.com [mailto:aruckman419@neo.rr.com]
Sent: Monday, January 11, 2021 12:28 PM
To: Diane S. Bennett
Subject: Re: 2020 CV 0169 CH file 20-00349 Modification

I no longer receive \$194 in EBT benefits. Still waiting on my PUA Unemployment benefits to be paid. I filed in May. I received an email in December stating they have received my application for benefits and its being processed. I'm still working self employed, but not with all my clients due to covid. Which entitles me to PUA benefits.

The balloon payment was what I was trying to get reduced. In reality my house payment is \$578 still, when you calculate what needs to be added in for the balloon payment each month, for 15 years.

If PHH doesn't have my paperwork and your office doesn't have it, where could it have gone this time? This is what took place before. Everyone claimed no paperwork was received and could not explain to myself or the credit counselor what happened.

At this point and with court fast approaching, I'm kinda stuck. Payment is still \$578 which currently is high with current circumstances, but this house is the only thing I have connecting me to my deceased daughter.

Will you be sending updated documents for me to sign?

----- Original message-----

From: Diane S. Bennett
Date: Thu, Jan 7, 2021 2:06 PM
To: ['aruckman419@neo.rr.com'](mailto:aruckman419@neo.rr.com)
Cc:
Subject: RE: 2020 CV 0169 CH file 20-00349 Modification

Hello:

If your financial situation has not changed, it is not likely to result in a different outcome.

They might offer you another trial plan, but the end result will likely be similar because our client has to stay within the investor guidelines on this loan. The balloon payment is the only way to get you into an affordable payment.

Our office has not received any financials from you and I didn't see anything in PHH's imaging system that was received. Last thing I see is the perm mod offer.

You can fax financials to our office at 330-436-0301 or email pdf attachments only to our office at keepmyhome@clunkhoose.com.

From: aruckman419@neo.rr.com [mailto:aruckman419@neo.rr.com]

Sent: Thursday, January 07, 2021 1:07 PM

To: Diane S. Bennett

Subject: 2020 CV 0169 CH file 20-00349 Modification

I sent another request for a modification approximately

3 1/2 weeks ago to PHH. With the holidays im not sure if that put things behind? I have not received any response. Will it come from your office or directly from PHH? The next court date is not that far away.

Angela Ruckman

The JDC Family of Companies®:

Clunk, Hoose Co., LPA

Omega Title Agency, LLC

Confidentiality Notice:

Federal and State Law requires that we inform you that this firm is a debt collector attempting to collect a debt and any information we obtain may be used for that purpose. The information contained in this email is intended only for the personal and confidential use of the recipient(s) named above. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by email and delete the original message.

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EXHIBIT B

Ashley E. Mueller

From: Diane S. Bennett
Sent: Monday, March 8, 2021 9:42 AM
To: 'aruckman419@gmail.com'
Subject: RE: 2020 CV 0169 Modification/Mediation Ch file 20-00349

Good Morning:

I received the below email from you this morning. Our client has advised that you are due for the February and March payments, for a total of \$873.93. If you want the modification to go through, that payment needs to be made immediately. Our client's modification team has confirmed they will accept that amount and then reverse the denial.

Also, I read down through all my notes, I have emails from you that you sent the December and January pmts, there is nothing mentioning that the February payment was sent (that was at the end of January).

If you have proof that you made the February payment and that it was accepted, please provide the proof and I will forward to our client.

Please let me know if you will be sending the payment today.

Thanks,
Diane S. Bennett
Loss Mitigation Department Coordinator
dbennett@clunkhoose.com
Clunk, Hoose Co., LPA
Attorneys At Law
495 Wolf Ledges Parkway
Akron, OH 44311
PH: (330) 436-0300 FAX: 330-436-0301 or 865-770-4022



From: Angela Ruckman [mailto:aruckman419@gmail.com]
Sent: Saturday, March 06, 2021 10:23 PM
To: Diane S. Bennett
Subject: Re: 2020 CV 0169 Modification/Mediation Ch file 20-00349

I've made all payments. Jan. Feb. March. However i was notified by krogers today. That PHH refused the payment dated Feb 11th which would have been for the month of March payment. Can you explain what the issue is and what to do?

From: Diane S. Bennett
Sent: Wednesday, March 03, 2021 9:31 AM
To: 'aruckman419@gmail.com'
Subject: 2020 CV 0169 Modification/Mediation Ch file 20-00349

Hello Angela:

The reversal has not yet been approved by management, our client is working to get it reversed; however, the last payment our client received from you was for the January payment, you will need to make the February and March payments immediately.

Do you still want the modification? Has your financial situation changed and you no longer want the mod?

If the reversal is not approved, you will need to reapply, I have attached a copy of the financial packet in case we don't get the approval.

This communication is provided pursuant to Ohio Evid. R. 408 and shall not be construed as an offer or acceptance of settlement or compromise.

Thanks,
Diane S. Bennett
Loss Mitigation Department Coordinator
dbennett@clunkhoose.com

Clunk, Hoose Co., LPA
Attorneys At Law
495 Wolf Ledges Parkway
Akron, OH 44311
PH: (330) 436-0300 FAX: 330-436-0301 or 855-770-4022



We cannot give you legal advice. We represent your Lender and our Client's interest may be opposed to your own interests. If you have questions regarding legal matters, we urge you to obtain your own attorney.

PLEASE BE ADVISED THAT THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY AND ALL INFORMATION PROVIDED BY YOU WILL BE USED FOR THAT PURPOSE.

Important Notice to Mortgagors Involved in a Bankruptcy proceeding: If you are a debtor involved in a bankruptcy proceeding, this e-mail or letter has been sent to you merely for informational purposes and may be disregarded as an attempt to collect the debt (unless your mortgage is subject to an in rem order). If the automatic stay is in effect, we will not act to collect the debt owed until the stay has been lifted or the case has been discharged, please be assured that we are not attempting, and will not attempt, to collect this debt as a personal obligation, except in those circumstances when we may have the right to do so under applicable bankruptcy law. Otherwise, we will seek recovery of the debt from the property securing this debt.

Ashley E. Mueller

From: Diane S. Bennett
Sent: Tuesday, March 23, 2021 3:51 PM
To: 'Angela Ruckman'
Subject: Breakdown of pmts 20-00349

Angela, below is the breakdown of your payments received.

Trial plan pmts were \$469.15

09/02/20 \$470 received - \$469.15 September's pmt = .85

10/26/20 \$1,000 received +.85 = \$1,000.85 - \$469.15 for October's pmt = \$531.70

\$531.70 - \$469.15 for November's pmt = \$62.55

12/03/20 \$470 received + \$62.55 = \$532.55 - \$469.12 (perm mod pmt for Dec) = \$63.43

01/05/21 \$470 received + \$63.43 = \$533.43 - \$469.12 (perm mod pmt for Jan) = \$64.31

Loan is due for the Feb an March pmts as of 3/23/21

The payment that was being sent today, 3/23/21 has not yet shown as received or applied to your account and will likely be rejected because it is not the full amount of the Feb & Mar pmts combined.

\$469.12 Feb + \$469.12 Mar = \$938.24 - \$64.31 = \$873.93.

Please send in one lump sum \$873.93 to cover the Feb and March payments.

This communication is provided pursuant to Ohio Evid. R. 408 and shall not be construed as an offer or acceptance of settlement or compromise.

Thanks,
Diane S. Bennett
Loss Mitigation Department Coordinator
dbennett@clunkhoose.com
Clunk, Hoose Co., LPA
Attorneys At Law
495 Wolf Ledges Parkway
Akron, OH 44311
PH: (330) 436-0300 FAX: 330-436-0301 or 855-770-4022

**CLUNK
HOOSE**

[Handwritten signature] E

4/13/2021

Gmail - 2020 CV 0169 ch file 20-00349



Angela Ruckman <aruckman419@gmail.com>

2020 CV 0169 ch file 20-00349

4 messages

Diane S. Bennett <dbennett@clunkhoose.com>
To: Angela Ruckman <aruckman419@gmail.com>

Fri, Mar 19, 2021 at 11:24 AM

Our client cannot confirm receipt of payments from you. The following amount is due before the end of March or the modification is denied.

We have still not received \$873.93. Mod team has given time to receive funds till end of march, If funds not received, mod will be denied again and then we will not be able to reverse mod denial.

End of March means we should receive funds at least by 25th, so that mod team can modify loan before month end, otherwise they will also ask for the payment of April.

The receipts that you provided do not show that payment was sent to and received by PHH.

It appears you may need to go back to Kroger to obtain your funds.

From: Diane S. Bennett
Sent: Wednesday, March 10, 2021 11:00 AM
To: 'Angela Ruckman'
Subject: RE: Progress

Your receipts were received and sent to PHH for review. .